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SOUTHERN DISTRICT OF NEVADA

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7 UNITED STATES DISTRICT COURT
8 SOUTHERN DISTRICT OF NEVADA
9 LAS VEGAS DIVISION

10 KIRBY SPENCER)

11 Plaintiff,)

12 vs.)

13 ENHANCED RECOVERY COMPANY, LLC)

14 Defendant.)

2:12-cv-00167-KJD -RJJ

COMPLAINT AND DEMAND FOR

JURY TRIAL

(UNLAWFUL DEBT COLLECTION

PRACTICES)

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19 NATURE OF ACTION

- 20
21 1. This is an action brought under the Fair Credit Reporting Act ("FCRA"), 15 U.S.C. §1681
22 *et seq* and 47 U.S.C. § 227 Telephone Consumer Protection Act ("TCPA").

23 JURISDICTION AND VENUE

- 24
25 2. **Jurisdiction.** This court's jurisdiction arises under 15 U.S.C. §1692k(d).

- 26 3. **Venue.** Venue is appropriate in this court because the plaintiff resides in this
27 district.
28

PARTIES

4. **Plaintiff.** KIRBY SPENCER is a person located in the Las Vegas area.

5. **Defendants.** ENHANCED RECOVERY COMPANY LLC ("Defendant") is an entity that, according to its website, is a debt collector. Defendant is a company with its headquarters in Jacksonville, FL.

FACTUAL ALLEGATIONS

6. Defendant made an unlawful inquiry onto Plaintiff's Experian credit report without Plaintiff's consent and or knowledge. The violation occurred on September 17, 2009.

7. Defendant made 13 unlawful phone calls originated from an automated dialer to the Plaintiff's cellular phone during a time span of several months. The violations occurred in 2011 during the months of August, September, October and November.

COUNT I

DEFENDANT VIOLATED THE FAIR CREDIT REPORTING ACT

8. Defendant violated the Fair Credit Reporting Act ("FCRA") 604(A)(2) and 15 U.S.C. §1681 by unlawfully placing an inquiry onto Plaintiff's credit report.

WHEREFORE, Plaintiff, respectfully requests judgment be entered against Defendants, for the following:

a) Awarding Plaintiff statutory damages of \$1000.00 pursuant to the Fair Credit Reporting Act ("FCRA") 15 U.S.C. §1681n. (1)(A) Civil liability for willful noncompliance.

b) Any other relief that this Honorable Court deems appropriate.

COUNT II

DEFENDANT VIOLATED THE TELEPHONE CONSUMER PROTECTION ACT

9. Defendant violated Telephone Collection Practices Act ("TCPA") 47 U.S.C. § 227(b)(1)(B).

WHEREFORE, Plaintiff, respectfully requests judgment be entered against Defendants, for the following:

- a) Awarding Plaintiff statutory damages of \$19500.00 pursuant to Telephone Consumer Protection Act ("TCPA") 47 U.S.C. § 227(b)(3).
- b) Awarding Plaintiff any other relief that this Honorable Court deems appropriate.

Respectfully submitted this 1st. day February, 2012

By: Kirby Spencer
Kirby Spencer

DEMAND FOR JURY TRIAL

PLEASE TAKE NOTICE that Plaintiff, KIRBY SPENCER, demands a jury trial in this case.

COMPLAINT AND DEMAND FOR JURY TRIAL

VERIFICATION OF COMPLAINT AND CERTIFICATION

STATE OF NEVADA)
COUNTY OF CLARK)

Plaintiff, Kirby Spencer, states as follows:

1. I am the Plaintiff in this civil proceeding.
2. This civil Complaint is well grounded in fact and warranted by existing law or by a good faith argument for the extension, modification or reversal of existing law.
3. This civil Complaint is not interposed for any improper purpose, such as to harass any Defendant(s), cause unnecessary delay to any Defendant(s), or create a needless increase in the cost of litigation to any Defendant(s), named in the Complaint.
4. I have filed this Complaint in good faith and solely for the purposes set forth in it.
5. Each and every exhibit I have provided or attached to this Complaint is a true and correct copy of the original.
6. Except for clearly indicated redactions made where appropriate, I have not altered, changed, modified or fabricated these exhibits, except that some have my my own handwritten notations.

Pursuant to 28 U.S.C. § 1746(2), I, Kirby Spencer, hereby declare under penalty of perjury that the foregoing is true, correct and materially complete.

By: Kirby Spencer
Kirby Spencer

DATE: February 1, 2012